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Corine A. Bickley

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EXAMINER

VO, HUYEN X

ART UNIT

PAPER NUMBER

2626

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/997,298

Applicant(s)

BICKLEY ET AL.

Examiner

Huyen X. Vo

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,7-14,16,17 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-14,16,17 and 20-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection in view of Will (US 6167117), necessitated by claim amendment.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 10-12, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Will (US 6167117).

4. Regarding claims 1 and 16, Will discloses a method and apparatus for providing a user an interface to a voice application, the method comprising:

providing a user with an interface to access the application and to invoke any of a plurality of application services (*telephone 120 in figure 1*);

receiving a communication from the user at a particular time of day (*telephone 120 in figure 1 configured to receive user's speech*);

performing speech recognition on input from the user (*col. 6, lines 30-65*);

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determining an accuracy of the speech recognition based on the time of day the voice communication is received (*col. 6, line 55 to col. 7, line 12 and col. 8, lines 10-50 further discuss the use of time of day in determining an accuracy of the speech recognition*); and

selecting an application service for the user automatically as a function of information representative of the user's past access to the application if the number of times the user previously selected the particular application service during the predetermined number of time periods is equal to or above a first predetermined threshold (*col. 6, lines 45-65, automatically dialing the recognized telephone number, wherein the telephone number is determined based on user's input speech and the time of day the speech is received; the user's calling behavior are collected and trained for each time the user uses the system*) and if the accuracy of the speech recognition is within a predetermined accuracy range (*col. 6, lines 45-65, the list of the "N best" matches are above a predefined threshold*).

5. Regarding claims 2 and 17, Will further discloses a method and apparatus according to claims 1 and 16, wherein the information representative of the user's past access to the application includes an identifier associated with a service provided by the application (*col. 7, line 13 to col. 8, line 67, the User's Calling Behavior Model Neural Network section*).

6. Regarding claims 10-12, Will further discloses the method according to claim 1, wherein each day includes more than one of the time periods (*col. 8, lines 10-16*), wherein the time periods include a weekday time period and a weekend time period (*col. 8, lines 10-16*), wherein each weekday includes more than one of the weekday time periods and each weekend day includes more than one of the weekend time periods (*col. 8, lines 10-16*).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-9, 14, 21, 23-26, and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Ono et al. (US Patent No. 5909023).

9. Regarding claim 21, Will fails to specifically disclose the method and apparatus according to claim 16, wherein the means for automatically selecting the application service for the user includes: means for automatically selecting the particular application service if the number of times the user selected the particular application service during the predetermined number of time periods is equal to or above a predetermined threshold. However, Ono et al. disclose means for automatically selecting the particular application service if the number of times the user selected the particular application

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service during the predetermined number of time periods is equal to or above a predetermined threshold (*col. 5, line 1 to col. 6, line 67*).

Since Will and Ono et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Will by incorporating the teaching of Ono et al. in order to improve speech recognition accuracy by selecting the most probable result based on user's past access.

10. Regarding claims 8-9 and 23, Will fails to specifically disclose the method and apparatus according to claims 1 and 21, respectively, farther comprising, for each time period, counting more than one occurrence that the user selected the particular application service as only one occurrence, and wherein the selected application service is the application service that the user accessed most frequently during the predetermined number of time periods. However, Ono et al. further disclose for each time period, counting more than one occurrence that the user selected the particular application service as only one occurrence (*col. 6, lines 1-67*), and wherein the selected application service is the application service that the user accessed most frequently during the predetermined number of time periods (*col. 5, lines 37-67*).

Since Will and Ono et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Will by incorporating the teaching of Ono et al. in order to improve

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speech recognition accuracy by selecting the most probable result based on user's past access.

11. Regarding claims 24-26, Will further discloses the apparatus according to claim 21, wherein each day includes more than one of the time periods (*col. 8, lines 10-16*), wherein the time periods include a weekday time period and a weekend time period (*col. 8, lines 10-16*), wherein each weekday includes more than one of the weekday time periods and each weekend day includes more than one of the weekend time periods (*col. 8, lines 10-16*).

12. Regarding claims 14 and 28, Will fails to specifically disclose a method and apparatus according to claims 1 and 16, respectively, further comprising: allowing the user modify the information representative of the user's past access to the application. However, Ono et al. teach allowing the user modify the information representative of the user's past access to the application (*col. 8, line 28 to col. 9, line 38, if the user cancel to purchase the presented goods, the purchase interval would be calculated and updated and the same for the case of selected goods*).

13. Claims 5 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Gardenswartz et al. (US 6298330).

14. Regarding claims 5 and 20, Will fails to specifically disclose a method and apparatus according to claims 1 and 16, wherein the receiving a voice communication includes receiving a location information, and the selecting an application service is also a function of the location information, and the information representative of the user's past access to the application includes the location information from which the user previously requested the service. However, Gardenswartz et al. teach wherein the receiving a voice communication includes receiving a location information, and the selecting an application service is also a function of the location information, and the information representative of the user's past access to the application includes the location information from which the user previously requested the service (*col. 5, line 64 to col. 6, line 7*).

Since Will and Gardenswartz et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Will by incorporating the teaching of Gardenswartz et al. in order to determine appropriate goods or services for the user.

15. Claim 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Walker et al. (US 6298329).

16. Regarding claim 7, Will fails to specifically disclose a method according to claim 1, wherein selecting the particular application service comprises selecting the particular application service if a ratio of the number of times the user selected the particular

application service during the predetermined number of time periods to the number of times the user could have selected the particular application service during the predetermined number of time periods is equal to or above a predetermined threshold. However, Walker et al. teach that selecting the application service comprises selecting the particular application service if a ratio of the number of times the user selected the particular application service during the predetermined number of time periods to the number of times the user could have selected the particular application service during the predetermined number of time periods is equal to or above a predetermined threshold (*col. 9, line 40 to col. 10, line 38*).

Since Will and Walker et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Will by incorporating the teaching of Walker et al. in order to determine and provide appropriate services for the user.

17. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Ono et al. (US Patent No. 5909023), and further in view of Walker et al. (US 6298329).

18. Regarding claim 22, Will fails to specifically disclose the apparatus according to claim 21, wherein selecting the particular application service comprises selecting the particular application service if a ratio of the number of times the user selected the particular application service during the predetermined number of time periods to the

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number of times the user could have selected the particular application service during the predetermined number of time periods is equal to or above a predetermined threshold. However, Walker et al. teach that selecting the application service comprises selecting the particular application service if a ratio of the number of times the user selected the particular application service during the predetermined number of time periods to the number of times the user could have selected the particular application service during the predetermined number of time periods is equal to or above a predetermined threshold (*col. 9, line 40 to col. 10, line 38*).

Since Will and Walker et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to further modify Will by incorporating the teaching of Walker et al. in order to determine and provide appropriate services for the user.

19. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Fox et al. (US 6584447).

20. Regarding claim 13, Will fails to specifically disclose a method and apparatus according to claim 1, further comprising: ranking each of the time periods by priority such that if a user selected the particular application service at a time within two different time periods and one of the two time periods has a higher priority, a pattern for the one of the two time periods having the greater priority is considered first. However Fox et al. teach ranking each of the time periods by priority such that if a user selected

the particular application service at a time within two different time periods and one of the two time periods has a higher priority, a pattern for the one of the two time periods having the greater priority is considered first (*col. 31, line 24 to col. 32, line 21*).

Since Will and Fox et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Will by incorporating the teaching of Fox et al. in order to determine and provide the most appropriate service for the user.

21. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Will (US 6167117) in view of Ono et al. (US Patent No. 5909023), and further in view of Fox et al. (US 6584447).

22. Regarding claim 27, Will further discloses an apparatus according to claim 24, wherein the server further includes: means for determining a plurality of patterns of access to the particular application service based upon the time periods the user selected the particular application service (*User's Calling Behavior Model in col. 7, line 13 to col. 8, line 67*), but fail to specifically disclose ranking each of the time periods by priority such that if a user selected a service at a time within two different time periods and one of the two time periods has a higher priority, a pattern for the one of the two time periods having the greater priority is considered first. However Fox et al. teach ranking each of the time periods by priority such that if a user selected a service at a time within two different time periods and one of the two time periods has a higher

priority, a pattern for the one of the two time periods having the greater priority is considered first (*col. 31, line 24 to col. 32, line 21*).

Since Will and Fox et al. are analogous art because they are from the same field of endeavors, it would have been obvious to one of ordinary skill in the art at the time of invention to further modify Will by incorporating the teaching of Fox et al. in order to determine and provide the most appropriate service for the user.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen X. Vo whose telephone number is 571-272-7631. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/5/2007

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